

report that it should be rights that are personal rights, and not class rights, rights which the individual holds as against the state, or against his government, which cannot be taken away by legislation. They should be clearly and very concisely written.

The provision in section 8, as I said before, is the language of the present Constitution. It has been in the Constitution since 1851 under the language, "excessive bail shall not be required," or rather, "that excessive bail ought not to be required." That is the way that it appears and has appeared since 1851.

The Committee has very wisely, I think, changed the wording in the present Bill of Rights to this: "Excessive bail shall not be required." This is a very valuable personal right. It should remain in the constitution, but I again submit that paragraph B of section 5 should be deleted and that the first sentence of section 8 is what we need and is all we need.

The argument was made before the Committee that a bail reform movement had taken place. There were too many people charged with crime who were required to stay in jail too long before reaching trial, and that this new provision would help that.

I wish to contradict that by saying that in 1965, under our present constitutional language, the legislature passed a law known, I think, as the Reform Bail Act, which provides in part as follows, and I am quoting: "When from all the circumstances the court is of the opinion that any accused person in a criminal case will appear as required for trial either before or after his conviction, the person may be released on his own recognizance."

I do not see how we could have any broader statute, and as I say, that was passed under the constitutional language which we now have. Even before this time, the Court of Appeals and the legislature, acting under the rule-making power, had adopted the rule which applies to bail in criminal cases, which is Rule 777. That rule provides, and I am quoting: "Prior to conviction the accused who is charged with an offense, the maximum punishment for which is other than capital, shall be entitled to be admitted to bail."

In a capital case the accused may be admitted to bail at the discretion of the Court. You can see that the rule is even more liberal than the provision which appears in section B of section 5 of the re-

port which I propose to have deleted, because this would not entitle any person to bail whatsoever if he were charged in a capital case.

I might go further and say that while it is restrictive in that case, it takes away the discretion of the judge in granting bail because under this section if a person is brought before a judge on bail, no matter what he has done, outside of a capital offense, he is entitled to bail, no matter how dangerous a person he might be to society, because the wording of that section is that he shall be entitled to release pending trial, conditioned only upon such bail or other terms as are reasonably necessary to secure his appearance before the court. It is as restrictive in capital cases. It takes away the discretion of the judicial officer in other than capital cases. My reasons, therefore, for asking that you support Amendment A, which will be distributed, are the following: it is entirely unnecessary, in view of what we have in section 8. It is repetitive, in a way, of section 8. Its language is not constitutional language but statutory language. It is both restrictive and takes away the discretion of the judicial officer who should pass upon the bail.

Mr. Chairman, that concludes my minority report.

*(Second Vice-President William James assumed the Chair.)*

DELEGATE JAMES (presiding): Are there any questions for the purpose of clarification?

Delegate Boileau.

DELEGATE BOILEAU: Delegate Child, are you of the opinion that a person should not be released if he cannot meet the bail?

DELEGATE JAMES (presiding): Delegate Child.

DELEGATE CHILD: No, sir, because my argument is this: under our present language and under our present statute, he has that right.

DELEGATE JAMES (presiding): Are there any other questions?

Delegate Fox.

DELEGATE FOX: Judge Child, I never had any difficulty with regard to arranging bail when I had the matter before a judge. The trouble that I have had with the bail situation is when the arrest comes on Friday night. It seems to me that it would be desirable if we had in Maryland a certain